



ACTION MEMORANDUM

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S/S

November 25, 1977

TO: The Deputy Secretary

FROM: HA - Mark Schneider, Acting
ARA - William P. Stedman, Acting

IFI Loans to BrazilIssue for Decision

Does the Human Rights situation in Brazil warrant U.S. support for an upcoming \$80 million global industrial credit loan in the Inter-American Development Bank for Brazil?

Essential Factors

Some time this month the U.S. Executive Director on the Inter-American Development Bank (IDB) Board will be asked to support an \$80 million global industrial credit loan to Brazil and a \$24 million rural electrification loan. The Inter-Agency Group has recommended that we support the latter loan as it meets basic human needs. The Group did not reach a consensus on whether the U.S. should support the global industrial credit loan. At writing, the question of a U.S. "veto" is not involved, because no FSO money is projected for this particular loan.

These two loans are the first ones for Brazil to come up for a vote subsequent to the passage of new legislation concerning implementation of our human rights policy in the international financial institutions. That legislation requires the US to oppose loans to countries engaged in a consistent pattern of gross violations of human rights unless such assistance is directed specifically to programs which serve basic human needs. The Administration's policy has been to use its voice and vote in the IFI's to promote human rights even in countries where there has not been a determination that a consistent pattern of gross violation exists.

Human Rights Situation

Brazil's human rights performance has improved considerably under President Geisel but it is still a problem country. Since Geisel ordered the security forces in late 1976 to stop abusing political prisoners, there has been a significant reduction in the frequency and severity of reported cases. Geisel subsequently reaffirmed this order in July and again recently. Those arrested under the

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exceptional national security laws continue to be tried in military courts, which while noted for their uniform procedures, are not under the jurisdiction of the civil judiciary.

In May and June, there were widespread arrests of demonstrating students. Some of the leaders were reportedly tortured in the course of interrogation, as were four alleged communist party members arrested in Rio de Janeiro. Again in September student demonstrations in Sao Paulo were put down with such force (including forced entry into the Catholic University) that President Geisel personally strongly rebuked the Sao Paulo Security Chief. More recently, Geisel ordered the security forces to abjure mistreatment of prisoners taken in an intended sweep of alleged communists. We have also heard that seven policemen in Sao Paulo were recently released from duty and arrested for their abuses. (These last three points should be treated as sensitive information.)

The area of political and press freedom has also manifested a mixed performance. The exceptional laws permit official proscription of "subversive" political philosophies. After an initial period of slow liberalization of the political process, Geisel recessed Congress in April 1977 when it blocked passage of a judicial reform amendment to the Constitution because they would not accept the government's desire to limit the independence of the courts and not to restore habeas corpus. During the recess, Geisel decreed an electoral reform law favoring the government oriented party in the next elections. Shortly after, two opposition deputies were deprived of their political rights, and both parties were denied access to television for campaigning. There is presently a study underway in the presidential staff of modes to open the political process as well as a more formalized dialogue between the government and opposition elements.

Press freedom has improved considerably under the Geisel government. There is a vigorous political debate underway in the press, generally focussing on redemocratization. Nevertheless, most newspapers must observe a self-censorship regime, with the forbidden subjects generally focussing on criticism of the "Revolution," the armed forces, and the President himself. A few publications still have government censors in the editorial offices. Some foreign publications also have been restricted. The electronic media are strictly controlled. Recently a writer was arrested for a novel previously passed by the censor; he was later released. A petition requesting freedom of the press and signed by thousands of intellectuals was printed in the press, but forbidden on television.

"Marginal" Brazilian social-economic groups continue to suffer unequal treatment under the law, including abuse by police who are often ill-trained, under less than effective



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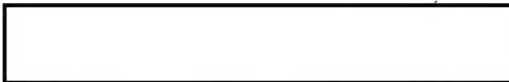
discipline, and sometimes corrupt. Such abuse was graphically illustrated in the harsh and humiliating treatment accorded two U.S. missionaries who were arrested and held several days without charges shortly before Mrs. Carter's June visit.

Though Brazil supported the recent budget increase for the IAHRC, it has manifested a negative attitude toward inspection visits by the organization. Before the Grenada OAS meeting, the GOB lobbied strongly to persuade Paraguay to reject such a visit. Brazil considers our intervention on behalf of the IAHRC, as well as our general expressions of concern about human rights in Brazil, to be interference in its internal affairs.

HA believes that we should underline our concerns over continuing serious human rights problems in Brazil by abstaining on the industrial credit loan which does not meet basic human needs. We have attempted on several occasions at high levels to signal our concerns to the Brazilian Government, including a demarche made in late July when we told Brazilian officials that human rights performance was an important factor in our support of IFI loans. The response given to such representations is that our concerns constitute interference in Brazil's internal affairs. The Brazilian Government has consistently refused to admit that problems exist. The time has come to put greater emphasis behind our verbal expressions of concern by demonstrating clearly the sincerity and priority of our human rights policy. It is also time to demonstrate that a policy of intransigence on the Brazilian Government's part may have negative implications for some of their other national interests.

U.S. abstention on a loan to Brazil is in keeping with our abstention on Korea. It involves a country where other very real and important U.S. national interests exist and thus would have the additional advantage of clearly demonstrating the overall international consistency of our human rights policy. This would be particularly important in strengthening our human rights position with Argentina, Chile, Paraguay, and Uruguay. These countries have indicated their belief that they are being singled out for negative U.S. action. They are also influenced, to varying degrees, by Brazilian actions and pressures. If Brazil can be convinced that it is in its own best interest to acknowledge its human rights problems and work toward their solution it could have a real and very important spillover effect among Southern Cone countries.

In addition, such a firm stand would give hope and support to those forces within Brazil which are working for the creation of a more open and just society. There are indications that



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our human rights policy has already helped them to speak out every more forcefully and openly. Any appearance of backsliding, inconsistency or lack of real commitment on our part could only serve to weaken their cause. Failure to back our words with action could have just that effect.

Another issue which must be considered is the Congressional reaction to continued US support of loans to Brazil, especially when such loans appear not to meet basic human needs. Brazil is viewed by many on the Hill as being a serious human rights violator. If the administration does not demonstrate clearly its intention to vigorously promote our human rights policy by using "voice and vote" on economic assistance to such countries, the Congress may further limit our flexibility in dealing with these nations.

ARA believes that abstention on the Brazil loan would give the wrong signal at the wrong time. Brazil, while still a human rights problem country, is a quantum leap from the the worst offenders in the hemisphere, much less the world. It has never been considered a gross and consistent violator, and we have never abstained on a Brazilian loan. It would be gratuitous and unproductive to do so now.

The notion that the Brazilians need a signal is curious. The Brazilians have received many signals, loud and clear. Over the past several months, human rights have been on the agenda of every high level U.S.-Brazil discussion as well as in official correspondence and diplomatic notes. Our cultural exchange program has a considerable human rights focus. Our representations and our well-publicized attitude have been helpful to the active Brazilian civil rights groups. To pointedly escalate our criticism, when the Brazilians have not escalated repression, through an abstention could easily stimulate a nationalist reaction and engender conservative pressure on Geisel to call a halt to further liberalization. In fact, to abstain on this loan, when things have not gotten worse, would enhance the skepticism some Brazilians -- not just those in the military -- feel toward our human rights stance when they allege that it is an attempt to freeze Brazil out of its growth to major nation status. Should a deteriorating trend become evident, then an abstention or even a negative vote might well be indicated.

To target Brazil at this point, solely to prove that we bring our policy to bear on countries in which we have other significant interests smacks of the arbitrary. ARA agrees that consistency is important -- particularly in dealing with Latin America as we deal with other parts of the world. And we note the committee just approved loans to Indonesia



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(ARA has no quarrel with the decision) based on the hope that Indonesia would release 10,000 of the 30,000 odd political prisoners it holds. Are we to abstain on a loan to Brazil. Where, by any standard, the record is much better? Abstention on this loan would suggest a double standard for Latin America.

Finally, an abstention under these circumstances would surely sour the atmosphere, making productive discussions with the Brazilian Government even more difficult on all important issues. Brazil is a significant power and we have another issue of grave concern to mankind, the non-proliferation issue, on our agenda. Abstention will not help the atmosphere for positive discussions on this issue, which is by no means near resolution.

S/P believes that the appropriate U.S. response would be to inform the GOB that recent improvements in the human rights situation in Brazil make it possible for us to vote affirmatively on this loan, but that continued mistreatment of prisoners, or a setback in the liberalization process, would make it difficult for us to support future loans. If questioned about the issue (e.g., by Congress), we could reply that while human rights problems in Brazil are as severe as in some countries to which we oppose loans, we believe the trend in Brazil is positive and should be given cautious encouragement.

L believes that the foregoing description of human rights observance in Brazil leaves unanswered a number of questions which are important in determining whether an affirmative U.S. vote can be defended as legally permissible. (We could defend an affirmative vote only on the ground that Brazil is not engaged in a consistent pattern of gross human rights violations.) In particular, the present record indicates that the military courts which try offenses under the national security laws have "uniform procedures"; there is no indication of whether these procedures afford a modicum of fairness. Similarly, the record notes President Geisel's admonitions against further torture of political prisoners; the effectiveness of his efforts in reducing the incidence of official torture is not stated. (

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.) Further, it is unclear how there can be a "vigorous political debate underway in the press" when criticism of the "Revolution," the armed forces and the President is forbidden.

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On the present record, the more prudent action from a legal standpoint would be to abstain. If an affirmative vote is considered justified, L believes it would be desirable to accompany such a vote with representations to Brazilian Government as recommended by S/P. Such representations would seem consistent with the intent of sections 701(a) and 703(a) of P.L. 95-118. These provisions call upon the United States Government, in connection with its participation in the international financial institutions, to advance the cause of human rights and to insure that the rewards of international economic cooperation are available to those who are seen to be moving toward making standards for the protection of human rights effective in their own systems of governance.

THE OPTIONS

1. That you instruct the U.S. Executive Director to the IDB to abstain on the global industrial credit loan to Brazil and have our Ambassador explain to the Government of Brazil that this action was taken because of U.S. concern over serious human rights conditions in that country.

2. That the U.S. Executive Director to the IDB be instructed to vote in favor of the global industrial credit loan to Brazil.

3. That the U.S. Executive Director to the IDB be instructed to vote in favor of the loan, but that the Embassy in Brasilia be instructed to inform the Brazilian Foreign Ministry at an appropriate level that our future votes on Brazilian loans will continue to be contingent on developments in Brazil's human rights performance.

Recommendations:

That you instruct the U.S. Executive Director to the IDB to abstain on the global industrial credit loan to Brazil and have our Ambassador explain to the Government of Brazil that this action was taken because of U.S. concern over serious human rights conditions in that country. (HA, H and L recommend)

Approve _____ Disapprove _____

That you instruct the U.S. Executive Director to the IDB to vote in favor of the global industrial credit loan to Brazil. (Assistant Secretary Todman, PM and EB recommend)

Approve _____ Disapprove _____

That you instruct the U.S. Executive Director to the IDB to vote in favor of the global industrial credit loan to Brazil and that our Embassy in Brasilia be asked to inform the Brazilian Foreign Ministry that our future affirmative votes will be contingent on developments in Brazil's human rights performance. (S/P recommends)

Approve _____

Disapprove _____

Drafters: HA/HR:MBC *MB* ARA/ECA:NBouton *MB*
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Concurrences: L - Mr. Hansell
H - Mr. Beke *per dls. Scott*
PM - Mr. Ericson *per dls. Hayes*
EB/IFD/ODF - Mr. Watson (in draft) *MB*
S/P - Ms. Walker (in draft) *MB*